

IC 21-2-14

Chapter 14. Funding of Distressed School Corporations

IC 21-2-14-1

Application of chapter

Sec. 1. This chapter shall apply to any public school corporation, (herein referred to as the "school corporation") in the state of Indiana which:

- (1) has advertised an annual general fund budget in an amount in excess of its receipts for such fund from all sources for the calendar year 1971;
- (2) has funded its general fund deficits by:
 - (i) holding bills due in 1971 and paying them in 1972; and
 - (ii) receiving an advance from the state of Indiana in 1971 of monies allocated to it under state law to be received in 1972;
- (3) has or will levy a cumulative building fund tax for the years 1973 through 1975; and
- (4) has had the appropriation of the school corporation for its general fund for the year 1972 reduced by 20% or more by the department of local government finance because they were in excess of the amount of monies for such year estimated to be available from all sources.

(Formerly: Acts 1972, P.L.171, SEC.2.) As amended by P.L.90-2002, SEC.434.

IC 21-2-14-1.5

Legislative findings

Sec. 1.5. (a) A number of school corporations in Indiana had become financially distressed by 1972 as a result of operating expenses growing faster than operating income from property taxes and state distributions. These school corporations need all available revenues for operation expenses, while much new construction may be postponed.

(b) A disproportionate number of these corporations and an unusual disparity in adjusted assessed valuation per pupils in average daily attendance are concentrated in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), as recognized by IC 21-2-12.

(c) A change in the adjustment basis used to adjust assessed valuation for the supplemental school tax will tend to reduce the disparities.

As added by P.L.1-1989, SEC.45. Amended by P.L.12-1992, SEC.119.

IC 21-2-14-2

Supplemental school operating reserve fund; tax levy

Sec. 2. All funds unobligated by contracts in the cumulative building fund and all receipts of the cumulative building fund levy made in 1971, payable in 1972, of each school corporation to which this chapter applies, may be transferred by the board of school

trustees or other governing body to a new fund to be known as the supplemental school operating reserve fund. The board of school trustees or other governing body shall levy a tax for such fund at not less than the rate which was levied for the cumulative building fund until such fund may be discontinued as provided in section 11 of this chapter. Such tax shall be levied at such rate for such period despite the provisions of any other law. It shall not be reviewed by the county board of tax adjustment nor reduced by the department of local government finance, but shall be imposed by the department of local government finance if the board of school trustees fails to levy it. During the time a school corporation has a supplemental school operating reserve fund it shall not have a cumulative building fund, except for funds then in the cumulative building fund unobligated by outstanding contracts. All other construction funds shall be appropriated out of its general fund.

(Formerly: Acts 1972, P.L.171, SEC.2.) As amended by P.L.2-1988, SEC.684; P.L.90-2002, SEC.435.

IC 21-2-14-3

"1972 deficit" defined; "state board" defined

Sec. 3. (a) For the purpose of this chapter, "1972 deficit" shall be an amount equal to the sum of:

- (1) all monies due the school corporation from the state in 1972 but actually as received as an advance in 1971; plus
- (2) the amount of any bills or obligations due in 1971 but not paid by the school corporation until 1972; plus
- (3) outstanding and unpaid judgments; plus
- (4) the amount by which the school corporation's appropriations are permitted to exceed its available revenues, exclusive of any loans or advancements, as described in section 10 of this chapter.

The amount of such 1972 deficit shall be certified by the department of local government finance within ten (10) days after petition requesting a certification of the amount thereof is filed by the school corporation. Such certification shall be binding on all persons as to the amount of such deficit.

(b) "State board" shall be the director of the budget agency and the department of local government finance.

(Formerly: Acts 1972, P.L.171, SEC.2.) As amended by P.L.2-1988, SEC.685; P.L.90-2002, SEC.436.

IC 21-2-14-4

Additional powers of school corporations

Sec. 4. Any such school corporation shall have the following additional powers:

- (1) To cancel any obligation of record as of January 1, 1972, from its general fund to its cumulative building fund and not repaid as provided in IC 36-1-8-4. This shall be effected by resolution of the governing body of such school corporation.
- (2) To transfer by similar resolution and use in its general fund

any unused and unobligated funds from any construction fund, including proceeds of general obligation bonds unobligated by contracts.

(3) To obtain a loan in the year 1972 to cover all or a part of its 1972 deficit, payable over a period not in excess of three (3) years out of its supplemental school operating reserve fund levy in accordance with the provisions of section 6 of this chapter.

(4) To the extent its 1972 deficit is not covered or extinguished by (a) the transfer provided in paragraph (2) and (b) the loan provided in paragraph (3) (if such loan can be obtained), to obtain an advance from the State also payable out of its supplemental school operation reserve fund levy in accordance with the provisions of section 7 of this chapter.

(5) Pay any existing unsatisfied judgment from its supplemental school operating reserve fund.

(Formerly: Acts 1972, P.L.171, SEC.2.) As amended by Acts 1981, P.L.11, SEC.123.

IC 21-2-14-5

Authority of state board

Sec. 5. (a) The state board shall have the following authority with respect to any school corporation exercising any of the powers set forth in section 4 of this chapter:

(1) The school corporation shall submit a detailed proposal for meeting its 1972 deficit, as provided in this chapter, on or before March 15 in each year it is required to levy a tax for the supplemental school operating reserve fund. The state board shall approve or disapprove such proposal and may make changes in the proposal.

(2) The school corporation, before beginning work on new construction projects or embarking on any remodeling or renovation of existing buildings, shall submit plans and engineer's estimates of the cost thereof to the state board. No such work shall be commissioned without the state board's approval. Before giving such approval, the state board may require bids thereon as required by applicable law.

(3) The school corporation shall not make any lease, purchase, or contractual obligation involving a commitment in excess of ten thousand dollars (\$10,000), make any salary increase, or hire any employee, until each such action is approved in writing by the state board. The state board may in its discretion give blanket approval permitting the school corporation to enter into specified classes of obligations without a specific approval for each obligation.

(4) Prior to advertising its annual budget, the school corporation shall submit its proposed budget to the state board, and shall only advertise a budget as approved by the state board. The state board shall set a date, not earlier than forty-five (45) days prior to the statutory publication date for filing of such budget with it and shall act promptly to approve or modify such budget.

(5) If the school corporation is not in compliance with this chapter, for any reason, including but not limited to an act of omission or commission of its governing body or any of its administrative officers, the state board may suspend any further benefit to such school corporation contained in this chapter.

(b) All such authority shall be exercised to permit the school corporation to operate an adequate educational system consistent with the monies available therefor.

(Formerly: Acts 1972, P.L.171, SEC.2.) As amended by P.L.2-1988, SEC.686.

IC 21-2-14-6

Initiation of loans by resolutions; limitations on loan; issuance of bonds authorized

Sec. 6. (a) The loan provided in section 4 of this chapter shall be initiated by a resolution of the governing body of the school corporation in an amount which, together with the outstanding obligations of the school corporation, shall not exceed its maximum permissible debt under the Indiana constitution. Such resolution shall not be effective until it is approved by the State Board upon petition of the governing body of the school corporation.

(b) The provisions of all general laws relating to the filing of petitions requesting issuance of bonds or other evidences of indebtedness (herein referred to as "the loan") and giving of notice of determination to issue bonds, the approval of the appropriation by the department of local government finance, and the right of taxpayers to remonstrate on the issuance or sale of the loan as provided under IC 6-1.1-20 shall not be applicable or shall not be a prerequisite to the validity of such loan, unless the obligation is a lease or lease purchase agreement described in IC 6-1.1-20.

(c) After the petition has been approved by the state board, the loan may be effected either by a loan from a financial institution evidenced by notes or by the issuance of bonds. The loan or the issuance of bonds shall be made only by public bidding after notice, in accordance with IC 5-1-11. The loan or bonds shall be sold at par and bear interest as determined by the bidding. Any bonds issued shall, except as otherwise provided in this section, be governed by IC 20-5-4. Any such bonds or loan may be secured by a pledge of the supplemental school operating reserve fund and the tax levy for such fund, or any unobligated part thereof; and shall be further secured as debt service obligations as provided in IC 20-5-4-10(2).

(Formerly: Acts 1972, P.L.171, SEC.2.) As amended by Acts 1981, P.L.11, SEC.124; P.L.25-1995, SEC.75; P.L.90-2002, SEC.437.

IC 21-2-14-7

Advances for general fund; limitations; procedure

Sec. 7. (a) In the event the 1972 deficit is not covered by the loan provided in section 6 of this chapter, the school corporation may receive an advance for its general fund from any monies of the state not otherwise appropriated. The amount of such advance and the

interest to be paid on it shall be determined by the state board. The advance, together with the amount borrowed under section 6 of this chapter, shall not be more than the 1972 deficit. Such advance may be made in 1972 or thereafter in installments of varying amounts at varying times, and shall be payable, if possible, in or prior to 1975, all as determined by the state board at the time of making the advancement, but shall be junior and subordinate to any loans or bonds authorized by section 6 of this chapter, and shall be made payable only after all principal and interest on any such loans or bonds has been paid. The state board shall make such advancements within the limitations of this section to the extent it deems necessary to permit the school corporation to operate an adequate educational system consistent with the available state monies and the other demands thereon.

(b) Such advance to the school corporation from the state shall not be an obligation of the school corporation within the meaning of the constitutional limitation against indebtedness. Any school corporation receiving an advance shall agree that the state shall deduct amounts in repayment of such advance at the times and in the amounts determined by the state board from any distributions of state school tuition support or other state distributions, otherwise due the school corporation.

(Formerly: Acts 1972, P.L.171, SEC.2.) As amended by P.L.2-1988, SEC.687.

IC 21-2-14-8

Repayment of loans

Sec. 8. (a) Any loan made under the provisions of section 6 of this chapter shall be repaid out of the supplemental school operating reserve fund levy which shall not be reduced during the term of the loan. In the event the governing body of the school corporation enters any order reducing such levy, the department of local government finance is hereby mandated to reinstate such levy at the times it certifies the annual levies for such school corporation.

(b) The amount of any reductions of any distribution, otherwise due the school corporation from the state, in repayment of the advances provided in section 6 of this chapter may be transferred by the school corporation by resolution of the governing body from its supplemental school operating reserve fund to its general fund.

(Formerly: Acts 1972, P.L.171, SEC.2.) As amended by P.L.2-1988, SEC.688; P.L.90-2002, SEC.438.

IC 21-2-14-9

Additional or emergency appropriations; requirement

Sec. 9. An appropriation by the school corporation shall not be a prerequisite to the validity of the loan or advancement provided by sections 5 through 7 of this chapter. The money obtained from such loan or advancement shall, however, not be expended by such school corporation until an additional or emergency appropriation is obtained therefor as provided under applicable law. The obtaining of

such additional appropriations, however, shall not require the action of any county tax adjustment board, but shall require only the approval, after appropriate advertising, of the department of local government finance.

(Formerly: Acts 1972, P.L.171, SEC.2.) As amended by P.L.2-1988, SEC.689; P.L.90-2002, SEC.439.

IC 21-2-14-10

Eligibility for provisions of chapter

Sec. 10. A school corporation may avail itself of the provisions of this chapter only if its 1972 general fund budget, consisting of all annual and additional appropriations approved by the department of local government finance, exceeds its 1972 available general fund revenues exclusive of any loans or advancements, as estimated by the department of local government finance, by no more than thirty-three percent (33%). Its 1973 advertised appropriations for the general fund shall be within its estimated available revenues therefor.

(Formerly: Acts 1972, P.L.171, SEC.2.) As amended by P.L.90-2002, SEC.440.

IC 21-2-14-11

Termination of supplemental school operation reserve fund; reinstatement of tax levy

Sec. 11. After a school corporation has paid all loans, bonds, and advances authorized by this chapter and is able to appropriate money for its general fund not to exceed its estimated available revenues as approved by the department of local government finance, it shall terminate its supplemental school operation reserve fund and may, pursuant to applicable law, reinstate the tax levy for its cumulative building fund, as if the supplemental school operation reserve fund levy had been a cumulative building fund levy.

(Formerly: Acts 1972, P.L.171, SEC.2.) As amended by P.L.2-1988, SEC.690; P.L.90-2002, SEC.441.

IC 21-2-14-12

Limitations on certain general fund appropriation

Sec. 12. In the case of the school corporation with the largest deficit the State Board may recommend that the 1972 and 1973 general fund appropriations not exceed thirty seven million dollars (\$37,000,000) for 1972 and estimated available revenues for 1973.

(Formerly: Acts 1972, P.L.171, SEC.2.)